

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

UNITED STATES OF AMERICA )  
                               )  
                               )  
                               )  
                               )  
vs.                           ) CR. NO. 2:07CR178-WKW  
                               )  
CHRISTOPHER KENDELL RUSH )  
                               )  
                               )

**DEFENDANT'S REQUESTED JURY INSTRUCTIONS**

COMES NOW the Defendant, CHRISTOPHER KENDELL RUSH, by and through his Attorney of record, and moves this Honorable Court to propound the attached requested instructions to the jury in the trial of the above styled cause.

Respectfully submitted this the 21<sup>st</sup> day of January, 2008.

/s/ Roianne Houlton Conner  
ROIANNE HOULTON CONNER  
ATTORNEY FOR DEFENDANT

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  )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Defendant's Requested Jury Charges were served upon the Assistant United States Attorney, Post Office Box 197, Montgomery, AL 36104, by placing a copy of the same in the United States Mail, properly addressed and postage pre-paid, and by Electronic Notice, on this the 21<sup>st</sup> day of January, 2008.

/s/ Roianne Houlton Conner  
ROIANNE HOULTON CONNER

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**DEFENDANT'S REQUESTED CHARGE NUMBER 1**

I charge you, members of the jury that the indictment in this case is not any evidence in this case, and the fact that the defendant has been indicted is not to be considered by you as a circumstance against him, but the indictment is merely a method of placing the defendant to trial.

**DEFENDANT'S REQUESTED CHARGE NUMBER 2**

I charge you, members of the jury that a reasonable doubt is a fair doubt, based upon reason and common sense, arising from the state of the evidence. While it is rarely possible to prove anything to an absolute certainty, suspicion or conjecture.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. The burden is upon the United States to prove the defendant guilty beyond a reasonable doubt of every essential element of the crime charged. A defendant has the right to rely upon failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution and upon evidence presented on behalf of the defendant. A reasonable doubt exists in any case when, after careful and impartial consideration of all the evidence in the case, the jurors do not feel convinced that a defendant is guilty of the charge. Upon considering all of the evidence, or lack of evidence, if you have a reasonable doubt about the defendant's guilt arising out of any part of the evidence, or a lack of evidence, you should find the defendant not guilty.

**DEFENDANT'S REQUESTED CHARGE NUMBER 3**

I charge you, members of the jury, that in determining what the true facts are in the case, you are limited to evidence that has been presented from the witness stand as opposed to matters that have been stated by the lawyers in the course of the trial. What the lawyers have said, both for the state and for the defendant, is not evidence in the case. What they have argued to you at various points in the trial is not evidence. They have a right and a duty at the appropriate time in the trial to comment on the evidence and to draw reasonable inferences from the evidence as they argue their respective positions to you. What they say is not evidence and you should put what they say in a proper category in your thinking and it should not be in the evidence category, just as the indictment in the case should not be in the evidence category.

**DEFENDANT'S REQUESTED CHARGE NUMBER 4**

I charge you, members of the jury, that as a matter of law,  
where a conviction for a criminal offense is sought upon  
circumstantial evidence alone, the United States must not only  
show, by a preponderance of the evidence and beyond a  
reasonable doubt, that the alleged facts and circumstances are true,  
but they must be such facts and circumstances that are true, and  
they must be such facts and circumstances as are absolutely  
incompatible upon any  
reasonable hypothesis other than that of the guilt of the accused.  
Therefore, if you find, based upon the evidence, that the United  
States did not prove beyond a reasonable doubt that the alleged  
facts and circumstances are not only true, but they are such facts  
and circumstances as are absolutely incompatible upon any  
reasonable hypothesis other than that of the guilt of the accused,  
then you must find the defendant not guilty.

**DEFENDANT'S REQUESTED CHARGE NUMBER 5**

I charge you, members of the jury, that a person charged with a crime should not be convicted unless the evidence excludes every reasonable hypothesis but that of the defendant's guilt. No matter how strong may be the circumstances, they do not come up to the full measure of proof which the law requires if they can be reasonably reconciled with the theory that the defendant is innocent. Therefore, if you find, based upon the evidence, that the United States has not, beyond a reasonable doubt, excluded every reasonable hypothesis but that of guilt, you must find the defendant not guilty.

**DEFENDANT'S REQUESTED CHARGE NUMBER 6**

I charge you, members of the jury, that when the evidence relied upon for a conviction is circumstantial, the chain of circumstances must be complete and of such character as to convince one beyond a reasonable doubt, and if the circumstances shown and proven, with the other evidence in the case, fail to convince you beyond a reasonable doubt that the defendant is guilty, then you should return a verdict of not guilty in this case.

**DEFENDANT'S REQUESTED CHARGE NUMBER 7**

I charge you, members of the jury, that the law presumes a defendant to be innocent of a crime. Thus a Defendant, although accused, begins the trial with a "clean slate" - with no evidence against him. The law permits nothing but legal evidence presented before the jury to be considered in support of any charge against the accused. The presumption of innocence follows a defendant until or if his guilt is established by the evidence beyond a reasonable doubt. The presumption of innocence alone is sufficient to acquit a defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt from all the evidence in the case.

**DEFENDANT'S REQUESTED CHARGE NUMBER 8**

I charge you, members of the jury, that the United States has the burden of proving the guilt of the Defendant beyond a reasonable doubt, and this burden remains on the United States throughout the case. The defendant is not required to prove his innocence. Therefore, if the United States has not proven beyond a reasonable doubt based upon the evidence that the defendant is guilty, then you must acquit him.

**DEFENDANT'S REQUESTED CHARGE NUMBER 9**

I charge you, members of the jury, that you are the sole judges of the evidence and of the credibility of the witnesses. You may accept or reject any part of the testimony of any witness and you should accept only the testimony you consider worthy of belief. In determining the weight to be accorded the testimony of any witness, you may consider the demeanor of the witness while on the stand, his or her apparent candor or evasion of the existence or non-existence of any bias or interest.

**DEFENDANT'S REQUESTED CHARGE 10**

I charge you, members of the jury, A person commits the crime of Felon in Possession of a Firearm if,

1. the defendant knowingly possessed a firearm in or affecting interstate commerce, and
2. that before the defendant possessed the firearm the defendant had been convicted of a felony, a crime punishable by imprisonment for a time exceeding one year.

This is a conjunctive test, meaning, that the United States Government must prove both elements together in order to convict the defendant. Remember, the defendant may present evidence, but has no duty to present evidence to counter these allegations. Instead, the United States must present all the evidence and it is the United States that carries all of the burden of proof. If you feel that the United States has not met it's burden in proving even one of these elements, you must return a verdict of not guilty.